

House Engrossed Senate Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 157

## **SENATE BILL 1102**

AN ACT

AMENDING SECTIONS 20-156, 20-363, 20-367, 23-901, 23-961, 23-962, 23-963 AND 23-966, ARIZONA REVISED STATUTES; AMENDING TITLE 23, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-970; REPEALING SECTIONS 23-1005 AND 23-1006, ARIZONA REVISED STATUTES; AMENDING SECTIONS 23-1021, 23-1026, 23-1029, 23-1065, 23-1070, 23-1091, 41-791, 41-2501 AND 41-4151, ARIZONA REVISED STATUTES; RELATING TO THE STATE COMPENSATION FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-156, Arizona Revised Statutes, is amended to  
3 read:

4 20-156. Examination of insurers; financial surveillance fund;  
5 definition

6 A. The director shall examine the affairs, transactions, accounts,  
7 records and assets of each authorized insurer as often as the director deems  
8 advisable. The director shall so examine each domestic insurer, domestic  
9 life and disability reinsurer as defined in section 20-1082, service company  
10 as defined in section 20-1095 and mechanical reimbursement reinsurer as  
11 defined in section 20-1096 at least once every five years. Examination of an  
12 alien insurer shall be limited to its insurance transactions in the United  
13 States.

14 B. The director shall in like manner examine each insurer applying for  
15 an initial certificate of authority to do business in this state.

16 C. In lieu of making an examination, the director may accept a full  
17 report of the last recent examination of a foreign or alien insurer,  
18 certified to by the insurance supervisory official of another state,  
19 territory, commonwealth or district of the United States.

20 ~~D. The director may examine the affairs, transactions, accounts and~~  
21 ~~records of the state compensation fund as often as the director reasonably~~  
22 ~~deems advisable. The results of such examination shall be the basis for any~~  
23 ~~advisory recommendations which the director deems necessary regarding the~~  
24 ~~operations of the state compensation fund.~~

25 ~~E.~~ D. The expenses of the examinations conducted under this section  
26 shall be paid by the insurance examiners' revolving fund as provided in  
27 section 20-159. Such expenses shall be limited to preexamination selection  
28 and preparation costs, examination costs, postexamination costs and other  
29 such costs of evaluations of compliance required by law.

30 ~~F.~~ E. The financial surveillance fund is established consisting of  
31 monies collected pursuant to subsection ~~G~~- F of this section. The fund is a  
32 special state fund pursuant to section 35-142, subsection A, paragraph 8.  
33 ~~Monies in the fund do not revert to the state general fund.~~ The department  
34 shall administer the fund. Monies in the fund are continuously appropriated  
35 and are exempt from the provisions of section 35-190 relating to lapsing of  
36 appropriations.

37 ~~G.~~ F. The director shall annually assess and collect from each  
38 domestic insurer, other than a domestic life and disability reinsurer as  
39 defined in section 20-1082, a service company as defined in section 20-1095,  
40 and a mechanical reimbursement reinsurer as defined in section 20-1096, an  
41 amount within the ranges provided in this subsection and on a uniform  
42 percentage basis among all fee categories, to pay the costs of employing  
43 financial analysts who shall assist the department in conducting financial  
44 surveillance of domestic insurers. The director shall deposit all collected  
45 monies in the financial surveillance fund. The director shall base the

amount of each insurer's assessment on the total admitted assets of the insurer as shown in its annual statement for the calendar year preceding the year in which the assessment is made, according to the following schedule:

	Minimum Assessment Amount	Maximum Assessment Amount
Insurers with total admitted assets of greater than \$1,000,000,000	\$15,000	\$22,500
Insurers with total admitted assets of at least \$200,000,000 but not more than \$1,000,000,000	\$ 5,000	\$ 7,500
Insurers with total admitted assets of at least \$100,000,000 but not more than \$199,999,999	\$ 3,000	\$ 4,500
Insurers with total admitted assets of at least \$50,000,000 but not more than \$99,999,999	\$ 1,500	\$ 2,250
Insurers with total admitted assets of at least \$25,000,000 but not more than \$49,999,999	\$ 500	\$ 750
Insurers with total admitted assets of not more than \$24,999,999	\$ 250	\$ 375

H. G. For THE purposes of this section, "insurer" includes health care services organizations, prepaid dental plan organizations, hospital service corporations, medical service corporations, dental service corporations and hospital, medical, dental and optometric service corporations incorporated in this state.

Sec. 2. Section 20-363, Arizona Revised Statutes, is amended to read:

20-363. Availability of services of rating organization to members

A. Subject to rules and regulations that have been approved by the director as reasonable, each workers' compensation rating organization shall permit any insurer writing workers' compensation insurance in this state to become a member. The rating organization shall give its members notice of proposed changes in its rules and regulations.

B. Each rating organization shall furnish its rating services without discrimination to its members.

C. Any member or insurer may request that the director review the reasonableness of any rule or regulation in its application to members at a hearing held on at least ten days' written notice to the rating organization and to the member or insurer. If the director finds that the rule or regulation is unreasonable in its application, the director shall order that the rule or regulation does not apply.

1 D. Every insurer writing workers' compensation insurance in this  
2 state, ~~including the state compensation fund~~, shall be a member of one  
3 workers' compensation rating organization.

4 E. A rating organization shall have as members at least five insurers  
5 authorized to write and who are writing workers' compensation insurance in  
6 this state and whose combined experience is determined by the director to be  
7 reasonably adequate for rate making purposes.

8 ~~F. In a rating organization of which the state compensation fund is a~~  
9 ~~member, the state compensation fund shall be entitled, without election, to~~  
10 ~~membership on any committee established in connection with the operation of~~  
11 ~~the rating organization in this state. One half of the members of each~~  
12 ~~committee shall be chosen by the stock insurers and one half by the nonstock~~  
13 ~~insurers.~~

14 ~~G. Neither the provisions of this section nor the rules, regulations~~  
15 ~~or rating plans of a rating organization affect or apply to self-rating plans~~  
16 ~~and rates and charges fixed by the state compensation fund under section~~  
17 ~~23-983.~~

18 Sec. 3. Section 20-367, Arizona Revised Statutes, is amended to read:

19 20-367. Workers' compensation appeals board; composition

20 A. A workers' compensation appeals board is established in the  
21 department.

22 B. The board shall have at least nine but not more than eleven members  
23 who are appointed by the director. The members shall serve three year terms.  
24 A member shall not serve more than two consecutive terms.

25 C. The board shall be comprised of AT LEAST:

26 1. The following voting members:

27 (a) Five representatives of insurers, one of which is the ~~state~~  
28 ~~compensation fund~~ INSURER WITH THE LARGEST ARIZONA WORKERS' COMPENSATION  
29 MARKET SHARE AS REPORTED BY THE DEPARTMENT OF INSURANCE IN ITS LATEST ANNUAL  
30 REPORT. Any licensed rating organization that meets the requirements  
31 prescribed in section 20-363, subsection E may nominate from its membership  
32 in this state one representative for each complete twenty per cent share of  
33 the total statewide workers' compensation net written premium for the  
34 preceding calendar year attributable to its membership. The director shall  
35 appoint any remaining insurer representatives needed to constitute five  
36 members as ratably as possible based on distribution of the total statewide  
37 workers' compensation net written premium for the preceding calendar year.

38 (b) Four representatives of the public. At least two shall be  
39 representatives of employers, and the remaining public members shall be  
40 persons who are knowledgeable about workers' compensation insurance.

41 2. A- ONE representative from any designated statistical agent who  
42 shall serve as a nonvoting advisory member.

43 D. The board members shall select a chairperson who shall call  
44 meetings as needed to consider requests made pursuant to section 20-367.01 or  
45 on request of the director.

1 E. The board shall submit to the director a plan of operation and all  
2 amendments that are necessary or suitable to ensure the fair, reasonable and  
3 equitable administration of the appeals process. The plan of operation and  
4 all amendments are effective on approval by the director.

5 F. Subject to the powers of the director, the board shall review  
6 appeals that are filed pursuant to section 20-367.01. The board may affirm  
7 the action of the rating organization or insurer or direct any rating  
8 organization or insurer to modify or reverse its application of the rating  
9 system that resulted in the appeal.

10 G. Members of the board are not eligible to receive compensation or  
11 travel expenses under title 38, chapter 4, article 2.

12 ~~H. The board established by this section terminates on July 1, 2010~~  
13 ~~pursuant to section 41-3102.~~

14 Sec. 4. Section 23-901, Arizona Revised Statutes, is amended to read:  
15 23-901. Definitions

16 In this chapter, unless the context otherwise requires:

17 1. "Award" means the finding or decision of an administrative law  
18 judge or the commission as to the amount of compensation or benefit due an  
19 injured employee or the dependents of a deceased employee.

20 2. "Client" means an individual, association, company, firm,  
21 partnership, corporation or any other legally recognized entity that is  
22 subject to this chapter and that enters into a professional employer  
23 agreement with a professional employer organization.

24 3. "Co-employee" means every person employed by an injured employee's  
25 employer.

26 4. "Commission" means the industrial commission of Arizona.

27 5. "Compensation" means the compensation and benefits provided by this  
28 chapter.

29 6. "Employee", "workman", "worker" and "operative" means:

30 (a) Every person in the service of the state or a county, city, town,  
31 municipal corporation or school district, including regular members of  
32 lawfully constituted police and fire departments of cities and towns, whether  
33 by election, appointment or contract of hire.

34 (b) Every person in the service of any employer subject to this  
35 chapter, including aliens and minors legally or illegally permitted to work  
36 for hire, but not including a person whose employment is both:

37 (i) Casual.

38 (ii) Not in the usual course of the trade, business or occupation of  
39 the employer.

40 (c) Lessees of mining property and their employees and contractors  
41 engaged in the performance of work which THAT is a part of the business  
42 conducted by the lessor and over which the lessor retains supervision or  
43 control are within the meaning of this paragraph employees of the lessor, and  
44 are deemed to be drawing wages as are usually paid employees for similar

1 work. The lessor may deduct from the proceeds of ores mined by the lessees  
2 the premium required by this chapter to be paid for such employees.

3 (d) Regular members of volunteer fire departments organized pursuant  
4 to title 48, chapter 5, article 1, regular firemen of any volunteer fire  
5 department, including private fire protection service organizations,  
6 organized pursuant to title 10, chapters 24 through 40, volunteer firemen  
7 serving as members of a fire department of any incorporated city or town or  
8 an unincorporated area without pay or without full pay and on a part-time  
9 basis, and voluntary policemen and volunteer firemen serving in any  
10 incorporated city, town or unincorporated area without pay or without full  
11 pay and on a part-time basis, are deemed to be employees, but for the  
12 purposes of this chapter, the basis for computing wages for premium payments  
13 and compensation benefits for regular members of volunteer fire departments  
14 organized pursuant to title 48, chapter 5, article 1, or organized pursuant  
15 to title 10, chapters 24 through 40, regular members of any private fire  
16 protection service organization, volunteer firemen and volunteer policemen of  
17 these departments or organizations shall be the salary equal to the beginning  
18 salary of the same rank or grade in the full-time service with the city,  
19 town, volunteer fire department or private fire protection service  
20 organization, provided if there is no full-time equivalent then the salary  
21 equivalent shall be as determined by resolution of the governing body of the  
22 city, town or volunteer fire department or corporation.

23 (e) Members of the department of public safety reserve, organized  
24 pursuant to section 41-1715, are deemed to be employees. For the purposes of  
25 this chapter, the basis for computing wages for premium payments and  
26 compensation benefits for a member of the department of public safety reserve  
27 who is a peace officer shall be the salary received by officers of the  
28 department of public safety for their first month of regular duty as an  
29 officer. For members of the department of public safety reserve who are not  
30 peace officers, the basis for computing premiums and compensation benefits is  
31 four hundred dollars a month.

32 (f) Any person placed in on-the-job evaluation or in on-the-job  
33 training under the department of economic security's temporary assistance for  
34 needy families program or vocational rehabilitation program shall be deemed  
35 to be an employee of the department for the purpose of coverage under the  
36 state workers' compensation laws only. The basis for computing premium  
37 payments and compensation benefits shall be two hundred dollars per month.  
38 Any person receiving vocational rehabilitation services under the department  
39 of economic security's vocational rehabilitation program whose major  
40 evaluation or training activity is academic, whether as an enrolled attending  
41 student or by correspondence, or who is confined to a hospital or penal  
42 institution, shall not be deemed to be an employee of the department for any  
43 purpose. ~~Any dividend which the department's vocational rehabilitation~~  
44 ~~program may be entitled to receive from the state compensation fund because~~  
45 ~~of a favorable loss experience for any policy period shall not revert to the~~

1 ~~state general fund but shall be applied to the department's current premium~~  
2 ~~obligations for workers' compensation coverage for such program.~~

3 (g) Regular members of a volunteer sheriff's reserve, which may be  
4 established by resolution of the county board of supervisors, to assist the  
5 sheriff in the performance of the sheriff's official duties. A roster of the  
6 current members shall monthly be certified to the clerk of the board of  
7 supervisors by the sheriff and shall not exceed the maximum number authorized  
8 by the board. Certified members of an authorized volunteer sheriff's reserve  
9 shall be deemed to be employees of the county for the purpose of coverage  
10 under the Arizona workers' compensation laws and occupational disease  
11 disability laws and shall be entitled to receive the benefits of these laws  
12 for any compensable injuries or disabling conditions ~~which~~ THAT arise out of  
13 and occur in the course of the performance of duties authorized and directed  
14 by the sheriff. Compensation benefits and premium payments shall be based  
15 upon the salary received by a regular full-time deputy sheriff of the county  
16 involved for the first month of regular patrol duty as an officer for each  
17 certified member of a volunteer sheriff's reserve. This subdivision shall  
18 not be construed to provide compensation coverage for any member of a  
19 sheriff's posse who is not a certified member of an authorized volunteer  
20 sheriff's reserve except as a participant in a search and rescue mission or a  
21 search and rescue training mission.

22 (h) A working member of a partnership may be deemed to be an employee  
23 entitled to the benefits provided by this chapter upon written acceptance, by  
24 endorsement, at the discretion of the insurance carrier for the partnership  
25 of an application for coverage by the working partner. The basis for  
26 computing premium payments and compensation benefits for the working partner  
27 shall be an assumed average monthly wage of not less than six hundred dollars  
28 nor more than the maximum wage provided in section 23-1041 and is subject to  
29 the discretionary approval of the insurance carrier. Any compensation for  
30 permanent partial or permanent total disability payable to the partner shall  
31 be computed on the lesser of the assumed monthly wage agreed to by the  
32 insurance carrier on the acceptance of the application for coverage or the  
33 actual average monthly wage received by the partner at the time of injury.

34 (i) The sole proprietor of a business subject to this chapter may be  
35 deemed to be an employee entitled to the benefits provided by this chapter on  
36 written acceptance, by endorsement, at the discretion of the insurance  
37 carrier of an application for coverage by the sole proprietor. The basis for  
38 computing premium payments and compensation benefits for the sole proprietor  
39 shall be an assumed average monthly wage of not less than six hundred dollars  
40 nor more than the maximum wage provided by section 23-1041 and is subject to  
41 the discretionary approval of the insurance carrier. Any compensation for  
42 permanent partial or permanent total disability payable to the sole  
43 proprietor shall be computed on the lesser of the assumed monthly wage agreed  
44 to by the insurance carrier on the acceptance of the application for coverage

1 or the actual average monthly wage received by the sole proprietor at the  
2 time of injury.

3 (j) A member of the Arizona national guard, Arizona state guard or  
4 unorganized militia shall be deemed a state employee and entitled to coverage  
5 under the Arizona workers' compensation law at all times while the member is  
6 receiving the payment of the member's military salary from the state of  
7 Arizona under competent military orders or upon order of the governor.  
8 Compensation benefits shall be based upon the monthly military pay rate to  
9 which the member is entitled at the time of injury, but not less than a  
10 salary of four hundred dollars per month, nor more than the maximum provided  
11 by the workers' compensation law. No Arizona compensation benefits shall  
12 inure to a member compensable under federal law.

13 (k) Certified ambulance drivers and attendants who serve without pay  
14 or without full pay on a part-time basis are deemed to be employees and  
15 entitled to the benefits provided by this chapter and the basis for computing  
16 wages for premium payments and compensation benefits for certified ambulance  
17 personnel shall be four hundred dollars per month.

18 (l) Volunteer workers of a licensed health care institution may be  
19 deemed to be employees and entitled to the benefits provided by this chapter  
20 upon written acceptance by the insurance carrier of an application by the  
21 health care institution for coverage of such volunteers. The basis for  
22 computing wages for premium payments and compensation benefits for volunteers  
23 shall be four hundred dollars per month.

24 (m) Personnel who participate in a search or rescue operation or a  
25 search or rescue training operation that carries a mission identifier  
26 assigned by the division of emergency management as provided in section  
27 35-192.01 and who serve without compensation as volunteer state employees.  
28 The basis for computation of wages for premium purposes and compensation  
29 benefits is the total volunteer man-hours recorded by the division of  
30 emergency management in a given quarter multiplied by the amount determined  
31 by the appropriate risk management formula.

32 (n) Personnel who participate in emergency management training,  
33 exercises or drills that are duly enrolled or registered with the division of  
34 emergency management or any political subdivision as provided in section  
35 26-314, subsection C and who serve without compensation as volunteer state  
36 employees. The basis for computation of wages for premium purposes and  
37 compensation benefits is the total volunteer man-hours recorded by the  
38 division of emergency management or political subdivision during a given  
39 training session, exercise or drill multiplied by the amount determined by  
40 the appropriate risk management formula.

41 (o) Regular members of the Arizona game and fish department reserve,  
42 organized pursuant to section 17-214. The basis for computing wages for  
43 premium payments and compensation benefits for a member of the reserve is the  
44 salary received by game rangers and wildlife managers of the Arizona game and  
45 fish department for their first month of regular duty.



1 (p) Every person employed pursuant to a professional employer  
2 agreement.

3 (q) Members of the department of administration capitol police  
4 reserve, organized pursuant to section 41-794, are deemed to be employees.  
5 For the purposes of this chapter, the basis for computing wages for premium  
6 payments and compensation benefits for a member of the department of  
7 administration capitol police reserve who is a peace officer shall be the  
8 salary received by officers of the department of administration for their  
9 first month of regular duty as an officer.

10 7. "General order" means an order applied generally throughout the  
11 state to all persons under jurisdiction of the commission.

12 8. "Heart-related or perivascular injury, illness or death" means  
13 myocardial infarction, coronary thrombosis or any other similar sudden,  
14 violent or acute process involving the heart or perivascular system, or any  
15 death resulting therefrom, and any weakness, disease or other condition of  
16 the heart or perivascular system, or any death resulting therefrom.

17 9. "Insurance carrier" means ~~the state compensation fund and every~~  
18 insurance carrier duly authorized by the director of insurance to write  
19 workers' compensation or occupational disease compensation insurance in the  
20 state of Arizona.

21 10. "Interested party" means the employer, the employee, or if the  
22 employee is deceased, the employee's estate, the surviving spouse or  
23 dependents, the commission, the insurance carrier or their representative.

24 11. "Mental injury, illness or condition" means any mental, emotional,  
25 psychotic or neurotic injury, illness or condition.

26 12. "Order" means and includes any rule, direction, requirement,  
27 standard, determination or decision other than an award or a directive by the  
28 commission or an administrative law judge relative to any entitlement to  
29 compensation benefits, or to the amount thereof, and any procedural ruling  
30 relative to the processing or adjudicating of a compensation matter.

31 13. "Personal injury by accident arising out of and in the course of  
32 employment" means any of the following:

33 (a) Personal injury by accident arising out of and in the course of  
34 employment.

35 (b) An injury caused by the wilful act of a third person directed  
36 against an employee because of the employee's employment, but does not  
37 include a disease unless resulting from the injury.

38 (c) An occupational disease ~~which~~ THAT is due to causes and conditions  
39 characteristic of and peculiar to a particular trade, occupation, process or  
40 employment, and not the ordinary diseases to which the general public is  
41 exposed, and subject to section 23-901.01.

42 14. "Professional employer agreement" means a written contract between  
43 a client and a professional employer organization:

44 (a) In which the professional employer organization expressly agrees  
45 to co-employ all or a majority of the employees providing services for the

1 client. In determining whether the professional employer organization  
2 employs all or a majority of the employees of a client, any person employed  
3 pursuant to the terms of the professional employer agreement after the  
4 initial placement of client employees on the payroll of the professional  
5 employer organization shall be included.

6 (b) That is intended to be ongoing rather than temporary in nature.

7 (c) In which employer responsibilities for worksite employees,  
8 including hiring, firing and disciplining, are expressly allocated between  
9 the professional employer organization and the client in the agreement.

10 15. "Professional employer organization" means any person engaged in  
11 the business of providing professional employer services. Professional  
12 employer organization does not include a temporary help firm or an employment  
13 agency.

14 16. "Professional employer services" means the service of entering into  
15 co-employment relationships under this chapter to which all or a majority of  
16 the employees providing services to a client or to a division or work unit of  
17 a client are covered employees.

18 17. "Special order" means an order other than a general order.

19 ~~18. "State compensation fund" includes the state compensation fund,~~  
20 ~~accident benefit fund and occupational disease compensation fund in existence~~  
21 ~~on January 2, 1969 and shall thereafter include all funds under the~~  
22 ~~jurisdiction of the board of directors of the state compensation fund which~~  
23 ~~have been derived from the assessment of premiums, interest, penalties and~~  
24 ~~investment earnings for the payment of all workers' compensation and~~  
25 ~~occupational disease compensation benefits.~~

26 ~~19.~~ 18. "Weakness, disease or other condition of the heart or  
27 perivascular system" means arteriosclerotic heart disease, cerebral vascular  
28 disease, peripheral vascular disease, cardiovascular disease, angina  
29 pectoris, congestive heart trouble, coronary insufficiency, ischemia and all  
30 other similar weaknesses, diseases and conditions, and also previous episodes  
31 or instances of myocardial infarction, coronary thrombosis or any similar  
32 sudden, violent or acute process involving the heart or perivascular system.

33 ~~20.~~ 19. "Workers' compensation" means workmen's compensation as used  
34 in article XVIII, section 8, Constitution of Arizona.

35 Sec. 5. Section 23-961, Arizona Revised Statutes, is amended to read:

36 23-961. Methods of securing compensation by employers; deficit  
37 premium; civil penalty

38 A. Employers shall secure workers' compensation to their employees in  
39 one of the following ways:

40 1. By insuring and keeping insured the payment of such compensation  
41 with ~~the state compensation fund or~~ an insurance carrier authorized by the  
42 director of insurance to write workers' compensation insurance in this state.

43 2. By furnishing to the commission satisfactory proof of financial  
44 ability to pay the compensation directly or through a workers' compensation  
45 pool approved by the commission in the amount and manner and when due as

1 provided in this chapter. The requirements of this paragraph may be  
2 satisfied by furnishing to the commission satisfactory proof that the  
3 employer is a member of a workers' compensation pool approved by the  
4 commission pursuant to section 23-961.01. The commission may require a  
5 deposit or any other security from the employer for the payment of  
6 compensation liabilities in an amount fixed by the commission, but not less  
7 than one hundred thousand dollars for workers' compensation liabilities. If  
8 the employer does not fully comply with the provisions of this chapter  
9 relating to the payment of compensation, the commission may revoke the  
10 authority of the employer to pay compensation directly.

11 B. An employer may not secure compensation to comply with this chapter  
12 by any mechanism other than as provided in this section. No insurance,  
13 combination or other program may be marketed, offered or sold as workers'  
14 compensation that does not comply with this section. An employer violates  
15 this chapter if the employer purchases or secures its obligations under this  
16 chapter through a substitute for workers' compensation that does not comply  
17 with this section.

18 C. Insurance carriers that transact the business of workers'  
19 compensation insurance in this state shall be subject to the rules of the  
20 director of insurance.

21 D. The director of insurance shall not issue to an insurance carrier a  
22 certificate of authority that authorizes the insurance carrier to transact  
23 workers' compensation insurance until the insurer deposits with the state  
24 treasurer, through the director of insurance, cash or securities. ~~The state~~  
25 ~~compensation fund shall also deposit cash or securities with the state~~  
26 ~~treasurer, through the director of insurance, before transacting the business~~  
27 ~~of workers' compensation insurance.~~ The amount of cash or securities  
28 required under this subsection shall be at least equal to the greater of the  
29 following amounts:

30 1. One hundred thousand dollars.

31 2. The sum of subdivisions (a) and (b) of this paragraph less credits  
32 for approved reinsurance computed as of the preceding December 31 or other  
33 time as requested by the department of insurance for workers' compensation  
34 insurance written subject to the laws of this state:

35 (a) The aggregate of the present values at six per cent interest of  
36 all determined and estimated future direct reported loss and loss expense  
37 payments on compensation claims incurred more than three years immediately  
38 before the preceding December 31 or other time as requested by the department  
39 of insurance.

40 (b) The aggregate of the amounts determined for each of the three  
41 years immediately before the preceding December 31 or other time as requested  
42 by the department of insurance ~~which~~ THAT equals the greater of the  
43 following:

1 (i) Sixty-five per cent of the earned premiums for the year less all  
2 direct reported loss and loss expense payments made on compensation claims  
3 incurred in the corresponding year.

4 (ii) The present value at six per cent interest of all determined and  
5 estimated future direct reported loss and loss expense payments on  
6 compensation claims incurred in that year.

7 E. On or before April 15 and on any date that the department of  
8 insurance specifically requests, an insurance carrier shall file with the  
9 department of insurance the information necessary to compute the required  
10 amount to be deposited pursuant to subsection D of this section and shall  
11 deposit any required additional amount.

12 F. An insurance carrier shall maintain at all times a deposit of cash  
13 or securities with the state treasurer, through the director of insurance, in  
14 an amount that is not less than the amount required under this section.

15 G. Cash or securities deposited pursuant to this section are subject  
16 to approval by the director of insurance at all times. The director of  
17 insurance shall hold the cash or securities for fulfillment of the  
18 obligations of the insurance carrier, including an insurance carrier acting  
19 as a reinsurer, under this chapter. The commission shall have a lien against  
20 the cash or securities deposited to the extent the special fund is liable to  
21 pay the obligations secured by the cash or securities.

22 H. Except in the event of nonpayment of premiums, each insurance  
23 carrier shall carry a risk to the conclusion of the policy period unless the  
24 policy is cancelled by the employer or unless one or both of the parties to a  
25 professional employer agreement terminate the agreement. The policy period  
26 shall be agreed upon by the insurance carrier and the employer.

27 I. At least thirty days' notice shall be given by the insurance  
28 carrier to the employer and to the commission of any cancellation or  
29 nonrenewal of a policy if the cancellation or nonrenewal is at the election  
30 of the insurance carrier. The insurance carrier shall promptly notify the  
31 commission of any cancellation by the employer or failure of the employer to  
32 renew the policy. The failure to give notice of nonrenewal if the nonrenewal  
33 is at the election of the insurance carrier shall not extend coverage beyond  
34 the policy period. An insurance carrier shall notify the commission on a  
35 form prescribed by the commission that it has insured an employer for  
36 workers' compensation promptly after undertaking to insure the employer.

37 J. Every insurance carrier, ~~including the state compensation fund~~, on  
38 or before March 1 of each year shall pay to the state treasurer for the  
39 credit of the administrative fund, in lieu of all other taxes on workers'  
40 compensation insurance, a tax of not more than three per cent on all premiums  
41 collected or contracted for during the year ending December 31 next  
42 preceding, less the deductions from such total direct premiums for applicable  
43 cancellations, returned premiums and all policy dividends or refunds paid or  
44 credited to policyholders within this state and not reapplied as premiums for  
45 new, additional or extended insurance. Every self-insured employer,

1 including workers' compensation pools, on or before March 31 of each year  
2 shall pay a tax of not more than three per cent of the premiums which THAT  
3 would have been paid by the employer if the employer had been fully insured  
4 ~~under a plan available from the state compensation fund~~ BY AN INSURANCE  
5 CARRIER AUTHORIZED TO TRANSACT WORKERS' COMPENSATION INSURANCE IN THIS STATE  
6 during the preceding calendar year. The commission shall adopt rules that  
7 shall specify ~~these~~ THE PREMIUM PLANS AND methods to be used for the  
8 calculation of rates and premiums and that shall be the basis for the taxes  
9 assessed to self-insured employers. The tax shall be not less than two  
10 hundred fifty dollars per annum and shall be computed and collected by the  
11 commission and paid to the state treasurer for the credit of the  
12 administrative fund at a rate not exceeding three per cent to be fixed  
13 annually by the industrial commission. The rate shall be no more than is  
14 necessary to cover the actual expenses of the industrial commission in  
15 carrying out its powers and duties under this title. Any quarterly payments  
16 of tax pursuant to subsection L of this section shall be deducted from the  
17 tax payable pursuant to this subsection.

18 K. An insurance carrier may reduce the amount of premiums paid by an  
19 employer by up to five per cent if all of the following apply:

20 1. The insured employer complies with the drug testing policy  
21 requirements prescribed in section 23-493.04.

22 2. The insured employer conducts drug testing of prospective  
23 employees.

24 3. The insured employer conducts drug testing of an employee after the  
25 employee has been injured.

26 4. The insured employer allows the employer's insurance carrier to  
27 have access to the drug testing results under paragraphs 2 and 3 of this  
28 subsection.

29 L. Any insurer ~~which~~ THAT, pursuant to this section, paid or is  
30 required to pay a tax of two thousand dollars or more for the preceding  
31 calendar year shall file a quarterly report, in a form prescribed by the  
32 commission, accompanied by a payment in an amount equal to the tax due at the  
33 rates prescribed in subsection J of this section for premiums determined  
34 pursuant to subsection J of this section or an amount equal to twenty-five  
35 per cent of the tax paid or required to be paid pursuant to subsection J of  
36 this section for the preceding calendar year. The quarterly payments shall  
37 be due and payable on or before the last day of the month following the close  
38 of the quarter and shall be made to the state treasurer.

39 M. If an overpayment of taxes results from the method prescribed in  
40 subsection L of this section the industrial commission may refund the  
41 overpayment without interest.

42 N. An insurer who fails to pay the tax prescribed by subsection J or L  
43 of this section or the amount prescribed by section 23-1065, subsection A is  
44 subject to a civil penalty equal to the greater of twenty-five dollars or

1 five per cent of the tax or amount due plus interest at the rate of one per  
2 cent per month from the date the tax or amount was due.

3 0. ~~Neither the state compensation fund nor~~ An insurance carrier  
4 authorized to write workers' compensation insurance may NOT assess an  
5 employer premiums for services provided by a contractor alleged to be an  
6 employee under section 23-902, subsection B or C, unless the ~~fund or~~ carrier  
7 has done both of the following:

8 1. Prepared written audit or field investigation findings establishing  
9 that all applicable factors for determining employment status under section  
10 23-902 have been met.

11 2. Provided a copy of such findings to the employer in advance of  
12 assessing a premium.

13 P. Notwithstanding section 23-901, paragraph 6, subdivision (i), a  
14 sole proprietor may waive the sole proprietor's rights to workers'  
15 compensation coverage and benefits if both the sole proprietor and the  
16 insurance carrier of the employer subject to this chapter for which the sole  
17 proprietor performs services sign and date a waiver which THAT is  
18 substantially in the following form:

19 I am a sole proprietor, and I am doing business as  
20 (name of sole proprietor). I am performing work as an  
21 independent contractor for (name of employer). I am not the  
22 employee of (name of employer) for workers' compensation  
23 purposes, and, therefore, I am not entitled to workers'  
24 compensation benefits from (name of employer). I understand  
25 that if I have any employees working for me, I must maintain  
26 workers' compensation insurance on them.

27  
28 Sole proprietor

Date

29  
30 Insurance carrier

Date

31 Sec. 6. Section 23-962, Arizona Revised Statutes, is amended to read:  
32 23-962. Insurance by governmental units; payment of premiums

33 A. Any county, city, town, municipal corporation or school district  
34 shall insure in any manner prescribed by the terms of section 23-961.  
35 Effective July 1, 1983, this state through the department of administration  
36 shall self-insure its liability, if any, under chapter 5 of this title and  
37 this chapter without the necessity of complying with ~~the provisions of~~  
38 section 23-961, subsection A, paragraph 2. On or before June 30, 1983, the  
39 state compensation fund and the department of administration shall enter into  
40 an interagency contract pursuant to title 11, chapter 7, article 3 for the  
41 return to this state of the reserves established and held by the state  
42 compensation fund for all claims against this state which THAT were incurred  
43 on or before that date. ~~The first five hundred thousand dollars of These~~  
44 ~~reserves shall be credited to the workers' compensation liability loss~~  
45 ~~revolving fund established pursuant to section 41-622, and the remainder~~

1 shall be credited to the state general fund. The department of  
2 administration shall direct the continuing payment and processing of all  
3 claims against this state for injuries to state employees which THAT were  
4 incurred both before and after July 1, 1983. All claims payments shall be  
5 made or reimbursed by the department on behalf of this state and for expenses  
6 incurred in connection with the payment and processing of such claims. The  
7 department of administration may procure excess loss coverage from the state  
8 ~~compensation fund~~ AN INSURANCE CARRIER for individual or aggregate claims, or  
9 both, in such amounts and at such primary retention levels as the department  
10 of administration deems in the best interest of the state.

11 B. The clerk of the board of supervisors of each county, the clerk of  
12 each political subdivision and the superintendent of each school district  
13 which THAT insures its workers' compensation liability with the state  
14 ~~compensation fund~~ AN INSURANCE CARRIER shall furnish quarterly to the state  
15 ~~compensation fund~~ INSURANCE CARRIER a true payroll showing the total amount  
16 paid to employees subject to the provisions of this chapter during each month  
17 of the quarter, segregated in accordance with the requirements of the state  
18 ~~compensation fund~~ INSURANCE CARRIER.

19 C. Each clerk and school superintendent shall thereupon prepare and  
20 submit to his respective governing body for approval a claim for the amount  
21 of premiums due the state ~~compensation fund~~ INSURANCE CARRIER. Such premiums  
22 shall be at once paid to the state ~~compensation fund~~ INSURANCE CARRIER by the  
23 proper officer. The department of administration shall draw a warrant for  
24 such premiums as are due until June 30, 1983 from the state in favor of the  
25 treasurer for the benefit of the state ~~compensation fund~~ INSURANCE CARRIER  
26 and the treasurer shall at once pay the warrant from the general fund and the  
27 appropriation made therefor in the general appropriation bill for the state  
28 ~~compensation fund~~ INSURANCE CARRIER.

29 Sec. 7. Section 23-963, Arizona Revised Statutes, is amended to read:  
30 23-963. Provisions of compensation insurance policy

31 Every policy of insurance covering the liability of the employer for  
32 workers' compensation, ~~whether issued by the state compensation fund or by~~  
33 ~~another,~~ shall cover the entire liability of the employer to his employees  
34 covered by the policy or contract, and be deemed to contain the following  
35 provisions:

36 1. That as between the employee and the insurance carrier the notice  
37 to or knowledge of the occurrence of the injury on the part of the employer  
38 shall be deemed notice or knowledge of the insurance carrier.

39 2. That jurisdiction of the employer shall be jurisdiction of the  
40 insurance carrier.

41 3. That the insurance carrier shall be bound by and subject to the  
42 orders, findings, decisions and awards rendered against the employer for  
43 payment of compensation.

1       4. That the insolvency or bankruptcy of the employer and his discharge  
2 therein shall not relieve the insurance carrier or workers' compensation pool  
3 from payment of compensation for injuries or death sustained by an employee  
4 during the life of the policy or contract.

5       Sec. 8. Section 23-966, Arizona Revised Statutes, is amended to read:

6       23-966. Failure of employer or insurance carrier to pay claim  
7               or comply with commission order; reimbursement of  
8               funds

9       A. If an insurance carrier or self-insured employer or other employer  
10 authorized by the commission to process or pay claims directly pursuant to  
11 this chapter does not fully comply with the provisions of the workers'  
12 compensation law relating to the PROCESSING OR payment of compensation,  
13 medical benefits or the final orders of the commission, the workers'  
14 compensation claims shall be assigned by the commission to the state  
15 ~~compensation~~ SPECIAL fund, ~~and the state compensation fund shall process the~~  
16 ESTABLISHED BY SECTION 23-1065. THE SPECIAL FUND SHALL ENSURE THAT THESE  
17 claims ARE PROCESSED and ~~pay such~~ THAT compensation, benefits or amounts due  
18 ~~on behalf of and under the direction of the special fund established by~~  
19 ~~section 23-1065. The special fund shall periodically, but not less~~  
20 ~~frequently than quarterly, reimburse the state compensation fund for the~~  
21 ~~compensation, benefits or amounts so paid, together with reasonable~~  
22 ~~administrative costs, necessary expenses and reasonable attorney fees ARE~~  
23 PAID. THE SPECIAL FUND MAY USE THIRD-PARTY PROCESSORS OR OTHER LEGAL,  
24 MEDICAL, CLAIMS OR LABOR MARKET PERSONNEL TO ASSIST IN THE PROCESSING AND  
25 PAYMENT OF CLAIMS ASSIGNED UNDER THIS SECTION.

26       B. In addition to ~~any reimbursement~~ EXPENDITURES authorized under  
27 subsection A of this section, the special fund may use monies for any expense  
28 or service that is necessary to ENSURE THAT CLAIMS ASSIGNED UNDER SUBSECTION  
29 A OF THIS SECTION ARE PROCESSED AND PAID, NECESSARY TO assist in the  
30 determination of liability of a claim that is assigned under this section or  
31 ~~collected~~ NECESSARY TO ASSIST IN THE COLLECTION OF MONIES OWED TO THE SPECIAL  
32 FUND UNDER THIS SECTION, INCLUDING COLLECTION against the cash, securities,  
33 bond and other assets of the insurance carrier or employer. These expenses  
34 may include travel, discovery procedures and employing any THIRD-PARTY  
35 PROCESSOR, expert, consultant or professional, including an attorney,  
36 auditor, examiner or actuary. THE SPECIAL FUND SHALL REIMBURSE THE  
37 ADMINISTRATIVE FUND FOR ALL EXPENSES INCURRED BY THE ADMINISTRATIVE FUND  
38 RELATED TO THE PROCESSING AND PAYMENT OF CLAIMS ASSIGNED UNDER THIS SECTION.

39       C. The special fund shall have a claim against the insurance carrier  
40 or employer for all monies that are spent or anticipated to be spent under  
41 this section, including administrative costs, necessary expenses and attorney  
42 fees. Any claim by the special fund shall be made on the cash, securities or  
43 bond filed under section 23-961 or applicable rules or on any other asset of  
44 the insurance carrier or employer.



1 D. The commission may increase the assessment established in section  
2 23-1065 by not to exceed one-half of one per cent of such assessment in any  
3 one year to reimburse the special fund for its ~~net~~ loss incurred under this  
4 section.

5 Sec. 9. Title 23, chapter 6, article 4, Arizona Revised Statutes, is  
6 amended by adding section 23-970, to read:

7 23-970. Misrepresentation of payroll, job description, job  
8 function or loss history affecting premium payment;  
9 violation; classification; penalty; civil action

10 A. IT IS UNLAWFUL FOR AN EMPLOYER TO WILFULLY MISREPRESENT TO AN  
11 INSURANCE CARRIER THE AMOUNT OF PAYROLL, THE JOB DESCRIPTION OR JOB FUNCTION  
12 OF AN EMPLOYEE, OR THE EMPLOYER'S LOSS HISTORY, ON WHICH THE PREMIUM FOR  
13 WORKERS' COMPENSATION INSURANCE TO BE PAID TO THE INSURANCE CARRIER IS BASED.

14 B. AN EMPLOYER THAT VIOLATES SUBSECTION A IS GUILTY OF A CLASS 6  
15 FELONY.

16 C. IN ADDITION TO THE PUNISHMENT THAT MAY BE IMPOSED PURSUANT TO  
17 SUBSECTION B, AN EMPLOYER THAT VIOLATES SUBSECTION A IS LIABLE FOR A PENALTY  
18 OF UP TO THREE TIMES THE AMOUNT OF THE DIFFERENCE IN PREMIUM PAID AND THE  
19 AMOUNT THE EMPLOYER SHOULD HAVE PAID. THE PENALTY SHALL BE COLLECTED IN A  
20 CIVIL ACTION BY THE INSURANCE CARRIER, IN ADDITION TO ANY OTHER DAMAGES THAT  
21 ARE INCURRED BY THE INSURANCE CARRIER DUE TO THE MISREPRESENTATION, INCLUDING  
22 COSTS AND ATTORNEY FEES. THE INSURANCE CARRIER SHALL INITIATE THE CIVIL  
23 ACTION WITHIN FOUR YEARS AFTER THE DATE THE INSURANCE CARRIER KNEW OR WITH  
24 THE EXERCISE OF REASONABLE DILIGENCE SHOULD HAVE KNOWN OF THE  
25 MISREPRESENTATION. THE INSURANCE CARRIER MAY INITIATE THE CIVIL ACTION  
26 REGARDLESS OF WHETHER A CRIMINAL ACTION IS BROUGHT AGAINST THE EMPLOYER.

27 Sec. 10. Repeal

28 Sections 23-1005 and 23-1006, Arizona Revised Statutes, are repealed.

29 Sec. 11. Section 23-1021, Arizona Revised Statutes, is amended to  
30 read:

31 23-1021. Right of employee to compensation

32 A. Every employee coming within the provisions of this chapter who is  
33 injured, and the dependents of every such employee who is killed by accident  
34 arising out of and in the course of his employment, wherever the injury  
35 occurred, unless the injury was purposely self-inflicted, shall be entitled  
36 to receive and shall be paid such compensation for loss sustained on account  
37 of the injury or death, such medical, nurse and hospital services and  
38 medicines, and such amount of funeral expenses in the event of death, as are  
39 provided by this chapter.

40 ~~B. Every employee who is covered by insurance in the state~~  
41 ~~compensation fund and who is injured by accident arising out of and in the~~  
42 ~~course of employment, and the dependents of every such employee who is~~  
43 ~~killed, provided the injury was not purposely self-inflicted, shall be paid~~  
44 ~~such compensation from the state compensation fund for loss sustained on~~  
45 ~~account of the injury and shall receive such medical, nurse and hospital~~

1 ~~services and medicines, and such amount of funeral expenses in event of~~  
2 ~~death, as provided in this chapter.~~

3 Sec. 12. Section 23-1026, Arizona Revised Statutes, is amended to  
4 read:

5 23-1026. Periodical medical examination of employee; effect of  
6 refusal or obstruction of examination or treatment

7 A. An employee who may be entitled to compensation under this chapter  
8 shall submit himself for medical examination from time to time at a place  
9 reasonably convenient for the employee, if and when requested by the  
10 commission, ~~the state compensation fund~~, his employer or the insurance  
11 carrier. A place is reasonably convenient even if it is not where the  
12 employee resides if it is the place where the employee was injured and the  
13 employer or the insurance carrier pays in advance the employee's reasonable  
14 travel expenses, including the cost of transportation, food, lodging and loss  
15 of pay, if applicable.

16 B. The request for the medical examination shall fix a time and place  
17 having regard to the convenience of the employee, his physical condition and  
18 his ability to attend. The employee may have a physician present at the  
19 examination if procured and paid for by himself.

20 C. If the employee refuses to submit to the medical examination or  
21 obstructs the examination, his right to compensation shall be suspended until  
22 the examination has been made, and no compensation shall be payable during or  
23 for such period.

24 D. A physician who makes or is present at the medical examination  
25 provided by this section may be required to testify as to the result thereof.

26 E. Upon appropriate application and hearing, the commission may reduce  
27 or suspend the compensation of an employee who persists in unsanitary or  
28 injurious practices tending to imperil or retard his recovery, or who refuses  
29 to submit to medical or surgical treatment reasonably necessary to promote  
30 his recovery.

31 F. An employee shall be excused from attending a scheduled medical  
32 examination if the employee requests a protective order and the  
33 administrative law judge finds that the scheduled examination is unnecessary,  
34 would be cumulative or could reasonably be timely scheduled with an  
35 appropriate physician where the employee resides. If a protective order is  
36 requested the burden is on the employer or insurance carrier to establish  
37 that a medical examination should be scheduled at a place other than where  
38 the employee resides. If an employee has left this state and the employer or  
39 insurance carrier pays in advance the employee's reasonable travel expenses,  
40 including the cost of transportation, food, lodging and loss of pay, if  
41 applicable, the employer or insurance carrier is entitled to have the  
42 employee return to this state one time a year for examination or one time  
43 following the filing of a petition to reopen.

1           Sec. 13. Section 23-1029, Arizona Revised Statutes, is amended to  
2 read:

3           23-1029. Repeal of chapter; effect on rights of parties

4           A. If the provisions of this chapter relative to compensation for  
5 injuries to or death of workmen are repealed, and the injury or death has not  
6 previously been compensated by lump payment or completed monthly payments,  
7 the period intervening between the injury or death and the repeal shall not  
8 be computed as a part of the time limited by law for the commencement of any  
9 action relating to such injury or death. The action shall be commenced  
10 within one year after the repeal and any amount paid as compensation shall be  
11 deducted from the right of recovery.

12           ~~B. In event of such repeal, all money in the state compensation fund~~  
13 ~~at the time of the repeal shall be subject to disposition by the legislature.~~

14           Sec. 14. Section 23-1065, Arizona Revised Statutes, is amended to  
15 read:

16           23-1065. Special fund; purposes; investment committee

17           A. The industrial commission may direct the payment into the state  
18 treasury of not to exceed one and one-half per cent of all premiums received  
19 by the state compensation fund and private insurance carriers during the  
20 immediately preceding calendar year. The same percentage shall be assessed  
21 against self-insurers based on the total cost to the self-insured employer as  
22 provided in section 23-961, subsection J. Such assessments shall be computed  
23 on the same premium basis as provided for in section 23-961, subsections J,  
24 K, L, M and N and shall be no more than is necessary to keep the special fund  
25 actuarially sound. Such payments shall be placed in a special fund within  
26 the administrative fund to provide, at the discretion of the commission, such  
27 additional awards as may be necessary to enable injured employees to accept  
28 the benefits of any law of the THIS state or of the United States, or both  
29 jointly, for promotion of vocational rehabilitation of persons disabled in  
30 industry.

31           B. In claims involving an employee who has a preexisting  
32 industrially-related permanent physical impairment of the type specified in  
33 section 23-1044, subsection B and who thereafter suffers an additional  
34 permanent physical impairment of the type specified in such subsection, the  
35 claim involving the subsequent impairment is eligible for reimbursement, as  
36 provided by subsection D of this section, according to the following:

37           1. The employer in whose employ the subsequent impairment occurred or  
38 its insurance carrier is solely responsible for all temporary disability  
39 compensation to which the employee is entitled and for an amount equal to the  
40 permanent disability compensation provided by section 23-1044, subsection B  
41 for the subsequent impairment. If the employee is determined to have  
42 sustained no loss of earning capacity after the medically stationary date,  
43 the employer or carrier shall pay him as a vocational rehabilitation bonus  
44 the amount calculated under this paragraph as a lump sum, which shall be a  
45 credit against any permanent compensation benefits awarded in any subsequent

1 proceeding. The amount of the vocational rehabilitation bonus for which the  
2 employer or carrier is responsible under this paragraph shall be calculated  
3 solely on physical, medically rated permanent impairment and not on  
4 occupational or other factors.

5 2. If the commission determines that the employee is entitled to  
6 compensation for loss of earning capacity under section 23-1044, subsection C  
7 or permanent total disability under section 23-1045, subsection B, the total  
8 amount of permanent benefits for which the employer or carrier is solely  
9 responsible under paragraph 1 of this subsection shall be expended first,  
10 with monthly payments made according to the loss of earning capacity or  
11 permanent total disability award. The employer or carrier and the special  
12 fund are equally responsible for the remaining amount of compensation for  
13 loss of earning capacity under section 23-1044, subsection C or permanent  
14 total disability under section 23-1045, subsection B. This paragraph shall  
15 not be construed as requiring payment of any benefits under section 23-1044,  
16 subsection B in any case in which an employee is entitled to benefits for  
17 loss of earning capacity under section 23-1044, subsection C or permanent  
18 total disability benefits under section 23-1045, subsection B.

19 C. In claims involving an employee who has a preexisting physical  
20 impairment ~~which~~ THAT is not industrially-related and, whether congenital or  
21 due to injury or disease, is of such seriousness as to constitute a hindrance  
22 or obstacle to employment or to obtaining reemployment if the employee  
23 becomes unemployed, and the impairment equals or exceeds a ten per cent  
24 permanent impairment evaluated in accordance with the American medical  
25 association guides to the evaluation of permanent impairment, and the  
26 employee thereafter suffers an additional permanent impairment not of the  
27 type specified in section 23-1044, subsection B, the claim involving the  
28 subsequent impairment is eligible for reimbursement, as provided by  
29 subsection D of this section, under the following conditions:

30 1. The employer in whose employ the subsequent impairment occurred or  
31 its carrier is solely responsible for all temporary disability compensation  
32 to which the employee is entitled.

33 2. The employer had knowledge of the permanent impairment at the time  
34 the employee was hired, or that the employee continued in employment after  
35 the employer acquired such knowledge.

36 3. The employee's preexisting impairment is due to one or more of the  
37 following:

- 38 (a) Epilepsy.
- 39 (b) Diabetes.
- 40 (c) Cardiac disease.
- 41 (d) Arthritis.
- 42 (e) Amputated foot, leg, arm or hand.
- 43 (f) Loss of sight of one or both eyes or a partial loss of uncorrected  
44 vision of more than seventy-five per cent bilaterally.
- 45 (g) Residual disability from poliomyelitis.

- 1 (h) Cerebral palsy.
- 2 (i) Multiple sclerosis.
- 3 (j) Parkinson's disease.
- 4 (k) Cerebral vascular accident.
- 5 (l) Tuberculosis.
- 6 (m) Silicosis.
- 7 (n) Psychoneurotic disability following treatment in a recognized
- 8 medical or mental institution.
- 9 (o) Hemophilia.
- 10 (p) Chronic osteomyelitis.
- 11 (q) Hyperinsulinism.
- 12 (r) Muscular dystrophies.
- 13 (s) Arteriosclerosis.
- 14 (t) Thrombophlebitis.
- 15 (u) Varicose veins.
- 16 (v) Heavy metal poisoning.
- 17 (w) Ionizing radiation injury.
- 18 (x) Compressed air sequelae.
- 19 (y) Ruptured intervertebral disk.

20 4. The employer or carrier and the special fund are equally  
21 responsible for the amount of compensation for loss of earning capacity under  
22 section 23-1044, subsection C or permanent total disability under section  
23 23-1045, subsection B.

24 D. The employer or insurance carrier shall notify the commission of  
25 its intent to claim reimbursement for an eligible claim under subsection B or  
26 C of this section not later than the time the employer or insurance carrier  
27 notifies the commission pursuant to section 23-1047, subsection A. Upon  
28 receiving notice the commission may expend funds from the special fund  
29 created by this section for travel and discovery procedures and for the  
30 employment of such independent legal, medical, rehabilitation, claims or  
31 labor market consultants or experts as may be deemed necessary by the  
32 commission to assist in the determination of the liability of the special  
33 fund, if any, under subsection B or C of this section. In the event there is  
34 any dispute regarding liability to the special fund pursuant to subsection B  
35 or C of this section, the commission shall not delay the issuance of a  
36 permanent award pursuant to section 23-1047, subsection B.

37 E. If the special fund created by this section is determined to be  
38 liable under either subsection B or C of this section, the employer or  
39 insurance carrier ~~which~~ THAT is primarily liable shall pay the entire amount  
40 of the award to the injured employee and the commission shall by rule provide  
41 for the reimbursement of the employer or insurance carrier on an annual  
42 basis. In any case arising out of subsection B or C of this section, the  
43 written approval of the special fund is required for the compromise of any  
44 claim made pursuant to section 23-1023. In any such case, written approval  
45 shall not be unreasonably withheld by the special fund, carrier, self-insured

1 employer or other person responsible for the payment of compensation.  
2 Failure to obtain the written approval of the special fund shall not cause  
3 the injured worker to lose any benefits but ends the special fund's liability  
4 for reimbursement and makes the employer or carrier solely responsible for  
5 the payment of the remaining benefits.

6 F. The employer or insurance carrier shall make its claim for  
7 reimbursement to the commission no later than November 1 each year, for  
8 payments made pursuant to subsection B or C of this section during the twelve  
9 months prior to October 1 each year. Claims shall be paid before December 31  
10 each year. If the total annual reserved liabilities of the special fund  
11 obligated under subsections B and C of this section exceed six million  
12 dollars, as determined by the annual actuarial study performed pursuant to  
13 subsection I of this section, the commission, after notice and a hearing, may  
14 levy an additional assessment under subsection A of this section of up to  
15 one-half per cent to meet such liabilities. Any insurance carrier or  
16 employer who may be adversely affected by the additional assessment may at  
17 any time prior to the sixtieth day after such additional assessment is  
18 ordered file a complaint challenging the validity of the additional  
19 assessment in the superior court in Maricopa county for a judicial review of  
20 the additional assessment. On judicial review the determination of the  
21 commission shall be upheld if supported by substantial evidence in the record  
22 considered as a whole.

23 G. In the event the injured employee is awarded additional  
24 compensation, under subsection A of this section, the commission retains  
25 jurisdiction to amend, alter or change the award upon a change in the  
26 physical condition of the injured employee resulting from the injury.

27 H. On receiving notice that the special fund may be liable under this  
28 chapter, the commission may spend monies from the special fund established by  
29 this section for expenses that are necessary to assist in the processing,  
30 payment or determination of liability of the fund. These expenses may  
31 include travel, discovery procedures and employing any legal, medical,  
32 rehabilitation, claims or labor market consultant, examiner or expert.

33 I. The commission shall cause an annual actuarial study of the special  
34 award fund to be made by a qualified actuary who is a member of the society  
35 of actuaries. The actuary shall make specific recommendations for  
36 maintaining the fund on a sound actuarial basis. The actuarial study shall  
37 be completed on or before September 1.

38 J. The special fund of the commission consists of all monies from  
39 premiums and assessments, except penalties assessed pursuant to this chapter,  
40 received and paid into the fund, property and securities acquired by the use  
41 of monies in the fund, interest earned on monies in the fund and other monies  
42 derived from the sale, use or lease of properties belonging to the fund. The  
43 special fund created by this section shall be administered by the director of  
44 the industrial commission, subject to the authority of the industrial  
45 commission. The director of the commission with approval of the investment

1 committee, in the administration of the special fund, may provide loans,  
2 subject to repayment, budgetary review and legislative appropriation, to the  
3 administrative fund for the purposes and subject to section 23-1081, acquire  
4 real property and acquire or construct a building or other improvements on  
5 the real property as may be necessary to house, contain, furnish, equip and  
6 maintain offices and space for departmental and operational facilities of the  
7 commission. The commission when using space constructed pursuant to this  
8 section shall make equal payments of rent on a semiannual basis, which shall  
9 be deposited in the special fund. The investment committee shall determine  
10 the amount of the rent, which must be at least equal to or greater than that  
11 determined by the joint committee on capital review for buildings of similar  
12 design and construction as provided by section 41-792.01.

13 K. There is established an investment committee consisting of the  
14 director and the chairman of the commission and three persons knowledgeable  
15 in investments and economics appointed by the governor. Of the members  
16 appointed by the governor, one shall be a professional in the investment  
17 business, one shall represent workers' compensation insurers and one shall  
18 represent self-insurers. The term of members appointed by the governor is  
19 three years, which shall begin on July 1 and end on June 30 three years  
20 later. The committee shall prescribe by rule investment policies and  
21 supervise the investment activities of the special fund.

22 L. Each member of the investment committee, other than the director of  
23 the commission, is eligible to receive from the special fund:

24 1. Compensation of fifty dollars for each day while in actual  
25 attendance at meetings of the investment committee.

26 2. Reimbursement for expenses pursuant to title 38, chapter 4,  
27 article 2.

28 M. The investment committee shall meet at least once every month.

29 N. The investment committee shall periodically review and assess the  
30 investment strategy.

31 O. The investment committee, by resolution, may invest and reinvest  
32 the surplus or reserves in the funds established under this chapter in any  
33 legal investments authorized under section 38-719.

34 P. In addition to the investments authorized under section 38-719, the  
35 investment committee may approve the investment in real property and  
36 improvements on real property to house and maintain offices of the  
37 commission, including spaces for its departmental and operational facilities.  
38 Title to the real estate and improvements on the real estate vests in the  
39 special fund of the commission, and the assets become part of the fund as  
40 provided by this section.

41 Q. The investment committee may appoint a custodian for the  
42 safekeeping of all or any portion of the investments owned by the special  
43 fund of the commission and may register stocks, bonds and other investments  
44 in the name of a nominee. Except for investments held by a custodian or in  
45 the name of a nominee, all securities purchased pursuant to subsection O of

1 this section shall promptly be deposited with the state treasurer as  
2 custodian thereof, who shall collect the dividends, interest and principal  
3 thereof, and pay, when collected, into the special fund. The state treasurer  
4 shall pay all vouchers drawn for the purchase of securities. The director  
5 may sell any of the securities as the director deems appropriate, if  
6 authorized by resolution of the investment committee, and the proceeds  
7 therefrom shall be payable to the state treasurer for the account of the  
8 special fund upon delivery of the securities to the purchaser or the  
9 purchaser's agent.

10 Sec. 15. Section 23-1070, Arizona Revised Statutes, is amended to  
11 read:

12 23-1070. Medical, surgical and hospital benefits provided by  
13 employer

14 A. An employer, other than the state or a political subdivision  
15 thereof, who secures compensation to his employees in the manner provided in  
16 ~~either SECTION 23-961, subsection A, paragraph 1, or subsection A, paragraph~~  
17 ~~2 of section 23-961~~, alone or jointly with other employers may, in lieu of  
18 making premium payments for medical, surgical and hospital benefits, MAY  
19 provide such benefits to injured employees and may collect one-half of the  
20 cost thereof from his employees, not to exceed one dollar per month from any  
21 employee, which may be deducted from the wages of the employee.

22 B. An employer electing to provide such benefits shall notify his  
23 insurance carrier and the commission of the election and render a detailed  
24 statement of the arrangements made therefor to the commission.

25 C. An employer who maintains a hospital for his employees or who  
26 contracts with a physician for the hospital care of injured employees shall,  
27 on or before January 30 each year, SHALL make a verified written report to  
28 the commission for the preceding year showing the total amount of hospital  
29 fees collected and showing separately the amount contributed by the employees  
30 and the amount contributed by the employers. The report shall also contain  
31 an itemized account of the expenditures, investments or other disposition of  
32 the fees, and a statement showing the balance remaining.

33 D. An employer who fails to notify his insurance carrier and the  
34 commission of his election to provide such benefits, or who maintains a  
35 hospital or contracts for hospital service as provided in subsection C of  
36 this section, and fails to make the financial report required therein, is  
37 liable for such benefits as provided in section 23-1062.

38 E. If the medical, surgical or hospital aid or treatment being  
39 furnished by an employer is such that there is reasonable ground to believe  
40 that the health, life or recovery of any employee is endangered or impaired  
41 thereby, the commission may, upon application of the employee or upon its own  
42 motion, MAY order a change of physicians or other conditions. If the  
43 employer fails to comply with the order promptly, the injured employee may  
44 elect to have medical, surgical or hospital aid or treatment provided by or  
45 through the ~~state compensation~~ SPECIAL fund ESTABLISHED BY SECTION



23-1065. In that event the claim of the injured employee against the employer shall be assigned to the ~~state compensation~~ SPECIAL fund for the benefit thereof, and the ~~state compensation~~ SPECIAL fund shall furnish to the insured employee medical, surgical or hospital aid or treatment as provided in this chapter.

Sec. 16. Section 23-1091, Arizona Revised Statutes, is amended to read:

23-1091. Assigned risk plan

A. An insurer may decline to issue a workers' compensation or occupational disease policy to an employer. An employer who is refused coverage by the ~~state compensation fund~~ and two or more ~~other~~ insurers shall be placed in the assigned risk plan established by this section.

B. There shall be only one workers' compensation assigned risk plan in this state. The director of the department of insurance shall contract with a qualified party to be the assigned risk plan administrator.

C. The administrator may charge all insurers transacting workers' compensation insurance in this state a reasonable fee to administer the assigned risk plan. Each insurer shall pay a share of the fee based on the insurer's share of the preceding calendar year's total net direct workers' compensation and occupational disease compensation insurance premiums written in this state.

D. The assigned risk plan administrator shall develop a plan of operation and, on approval by the director of the department of insurance, shall issue a directive for the equitable apportioning of assigned risks among all the insurers, ~~including the state compensation fund~~. At any time, the director of the department of insurance may require the assigned risk plan administrator to amend the plan of operation. The plan shall include at least the following:

1. A method for the administrator to select one or more insurers transacting workers' compensation insurance in this state to act as servicing carriers. An administrator that is an insurer may act as its own servicing carrier. The administrator shall monitor the performance of the servicing carriers and shall measure performance against the administrator's established standards. A servicing carrier shall:

(a) Provide coverage for the risks placed in the assigned risk plan.

(b) Pay claims.

(c) Provide safety management services.

(d) Perform other activities that are related to the preliminary and subsequent effectuation of the contract and that arise out of the contract, including paying commissions to any licensed property and casualty agent or broker in this state.

2. A method for apportioning the workers' compensation assigned risks among all insurers, ~~including the state compensation fund~~.

E. Unless the director ~~determines~~ DECIDES to use another method, the rates used to determine the premiums of risks in the assigned risk plan are

1 the rates annually filed with the director of the department of insurance by  
2 the designated rating organization pursuant to section 20-357, subsection B,  
3 unless the director requires the use of rates from another rating  
4 organization, plus a uniform percentage increase that applies to all  
5 classifications, that is determined by the designated rating organization or,  
6 if the director directs, another rating organization and that is subject to  
7 approval by the director. The expected loss rates, ballast factors and other  
8 factors for use with the uniform experience rating plan as described in title  
9 20, chapter 2, article 4 and filed with the director also apply to experience  
10 rated risks in the assigned risk plan.

11 F. Rating classifications used in the assigned risk plan shall conform  
12 to the uniform classification plan. Subclassifications and rating rule  
13 deviations shall not be used in the assigned risk plan.

14 G. All insurers participating in workers' compensation or occupational  
15 disease compensation insurance shall participate in the assigned risk plan.

16 H. Distribution of assignments among insurers shall be made in  
17 proportion to each insurer's share of the preceding calendar year's total net  
18 direct workers' compensation and occupational disease compensation insurance  
19 premium written in this state, as far as practicable.

20 I. An insurer that refuses to participate in the assigned risk plan  
21 shall not be authorized to write workers' compensation coverage in this  
22 state. If an insurer refuses to participate in the assigned risk plan after  
23 being authorized to write workers' compensation coverage in this state, the  
24 insurer's authorization shall be revoked. If an insurer withdraws from or is  
25 terminated from writing workers' compensation coverage in this state, the  
26 insurer remains responsible for all injuries sustained during the period of  
27 coverage stated in the policies of that insurer.

28 Sec. 17. Section 41-791, Arizona Revised Statutes, is amended to read:

29 41-791. Powers and duties relating to public buildings  
30 maintenance; compensation of personnel

31 A. The department is responsible for the direction and control of  
32 public buildings maintenance as prescribed in this article.

33 B. The department is responsible for the allocation of space,  
34 operation, alteration, renovation and security of the following buildings:

35 1. The state capitol executive tower of the state capitol building.

36 2. The state office buildings in Tucson.

37 3. All other buildings owned or leased by the state and located near  
38 the state capitol building and the state office buildings in Tucson, except  
39 for:

40 (a) Buildings occupied, operated and maintained by the following state  
41 agencies:

42 (i) The department of transportation.

43 (ii) The Arizona power authority.

44 ~~(iii) The state compensation fund.~~

1 (b) The state capitol museum, the legislative services wing, house of  
2 representatives and senate wings of the state capitol building and the public  
3 records retention center subject to section 41-1304.

4 (c) The department of economic security facilities purchased with  
5 federal funding assistance and exclusively and continuously operated and  
6 maintained for its own occupancy.

7 (d) The Arizona courts building.

8 C. The department is responsible for the maintenance of the following  
9 buildings and grounds:

10 1. The entire state capitol building and the grounds adjacent to it.

11 2. The state office buildings in Tucson and the grounds adjacent to  
12 them.

13 3. Other buildings and grounds owned or leased by the state if the  
14 function is not otherwise assigned, except for the interior of the Arizona  
15 courts building.

16 D. The director may establish rules for the operation, maintenance and  
17 security of buildings and grounds under his jurisdiction.

18 E. The department shall:

19 1. Employ engineers and maintenance and operations personnel as  
20 required, including a buildings manager for the state office buildings in  
21 Tucson.

22 2. Determine the hours of duty and assignment of personnel.

23 F. All personnel employed under this article are eligible to receive  
24 compensation as determined under section 38-611.

25 Sec. 18. Section 41-2501, Arizona Revised Statutes, is amended to  
26 read:

27 41-2501. Applicability

28 A. This chapter applies only to procurements initiated after January  
29 1, 1985 unless the parties agree to its application to procurements initiated  
30 before that date.

31 B. This chapter applies to every expenditure of public monies,  
32 including federal assistance monies except as otherwise specified in section  
33 41-2637, by this state, acting through a state governmental unit as defined  
34 in this chapter, under any contract, except that this chapter does not apply  
35 to either grants as defined in this chapter, or contracts between this state  
36 and its political subdivisions or other governments, except as provided in  
37 chapter 24 of this title and in article 10 of this chapter. This chapter  
38 also applies to the disposal of state materials. This chapter and rules  
39 adopted under this chapter do not prevent any state governmental unit or  
40 political subdivision from complying with the terms of any grant, gift,  
41 bequest or cooperative agreement.

42 C. All political subdivisions and other local public agencies of this  
43 state may adopt all or any part of this chapter and the rules adopted  
44 pursuant to this chapter.

1 D. The Arizona board of regents, ~~AND the legislative and judicial~~  
2 ~~branches of state government and the state compensation fund~~ are not subject  
3 to this chapter except as prescribed in subsection E of this section.

4 E. The Arizona board of regents and the judicial branch shall adopt  
5 rules prescribing procurement policies and procedures for themselves and  
6 institutions under their jurisdiction. The rules must be substantially  
7 equivalent to the policies and procedures prescribed in this chapter.

8 F. The Arizona state lottery commission is exempt from this chapter  
9 for procurement relating to the design and operation of the lottery or  
10 purchase of lottery equipment, tickets and related materials. The executive  
11 director of the Arizona state lottery commission shall adopt rules  
12 substantially equivalent to the policies and procedures in this chapter for  
13 procurement relating to the design and operation of the lottery or purchase  
14 of lottery equipment, tickets or related materials. All other procurement  
15 shall be as prescribed by this chapter.

16 G. The Arizona health care cost containment system administration is  
17 exempt from this chapter for provider contracts pursuant to section 36-2904,  
18 subsection A and contracts for goods and services, including program  
19 contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All  
20 other procurement, including contracts for the statewide administrator of the  
21 program pursuant to section 36-2903, subsection B, shall be as prescribed by  
22 this chapter.

23 H. Arizona industries for the blind is exempt from this chapter for  
24 purchases of finished goods from members of national industries for the blind  
25 and for purchases of raw materials for use in the manufacture of products for  
26 sale pursuant to section 41-1972. All other procurement shall be as  
27 prescribed by this chapter.

28 I. Arizona correctional industries is exempt from this chapter for  
29 purchases of raw materials, components and supplies that are used in the  
30 manufacture or production of goods or services for sale entered into pursuant  
31 to section 41-1622. All other procurement shall be as prescribed by this  
32 chapter.

33 J. The state transportation board and the director of the department  
34 of transportation are exempt from this chapter other than section 41-2586 for  
35 the procurement of construction or reconstruction, including engineering  
36 services, of transportation facilities or highway facilities and any other  
37 services that are directly related to land titles, appraisals, real property  
38 acquisition, relocation, property management or building facility design and  
39 construction for highway development and that are required pursuant to title  
40 28, chapter 20.

41 K. The Arizona highways magazine is exempt from this chapter for  
42 contracts for the production, promotion, distribution and sale of the  
43 magazine and related products and for contracts for sole source creative  
44 works entered into pursuant to section 28-7314, subsection A, paragraph 5.  
45 All other procurement shall be as prescribed by this chapter.

1 L. The secretary of state is exempt from this chapter for contracts  
2 entered into pursuant to section 41-1012 to publish and sell the  
3 administrative code. All other procurement shall be as prescribed by this  
4 chapter.

5 M. This chapter is not applicable to contracts for professional  
6 witnesses if the purpose of such contracts is to provide for professional  
7 services or testimony relating to an existing or probable judicial proceeding  
8 in which this state is or may become a party or to contract for special  
9 investigative services for law enforcement purposes.

10 N. The head of any state governmental unit, in relation to any  
11 contract exempted by this section from this chapter, has the same authority  
12 to adopt rules, procedures or policies as is delegated to the director  
13 pursuant to this chapter.

14 O. Agreements negotiated by legal counsel representing this state in  
15 settlement of litigation or threatened litigation are exempt from this  
16 chapter.

17 P. This chapter is not applicable to contracts entered into by the  
18 department of economic security:

19 1. With a provider licensed or certified by an agency of this state to  
20 provide child day care services or with a provider of family foster care  
21 pursuant to section 8-503 or 36-554.

22 2. With area agencies on aging created pursuant to the older Americans  
23 act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001  
24 through 3058ee).

25 3. For services pursuant to title 36, chapter 29, article 2.

26 4. With an eligible entity as defined by Public Law 105-285, section  
27 673(1)(a)(i), as amended, for designated community services block grant  
28 program monies and any other monies given to the eligible entity that  
29 accomplishes the purpose of Public Law 105-285, section 672.

30 Q. The department of health services may not require that persons with  
31 whom it contracts follow this chapter for the purposes of subcontracts  
32 entered into for the provision of the following:

33 1. Mental health services pursuant to section 36-189, subsection B.

34 2. Services for the seriously mentally ill pursuant to title 36,  
35 chapter 5, article 10.

36 3. Drug and alcohol services pursuant to section 36-141.

37 4. Domestic violence services pursuant to title 36, chapter 30,  
38 article 1.

39 R. The department of health services is exempt from this chapter for  
40 contracts for services of physicians at the Arizona state hospital.

41 S. Contracts for goods and services approved by the board of trustees  
42 of the public safety personnel retirement system are exempt from this  
43 chapter.

44 T. The Arizona department of agriculture is exempt from this chapter  
45 with respect to contracts for private labor and equipment to effect cotton or

1 cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,  
2 article 1. On or before September 1 of each year, the director of the  
3 Arizona department of agriculture shall establish and announce costs for each  
4 acre of cotton or cotton stubble to be abated by private contractors.

5 U. The Arizona state parks board is exempt from this chapter for  
6 purchases of guest supplies and items for resale such as food, linens, gift  
7 items, sundries, furniture, china, glassware and utensils for the facilities  
8 located in the Tonto natural bridge state park.

9 V. The Arizona state parks board is exempt from this chapter for the  
10 purchase, production, promotion, distribution and sale of publications,  
11 souvenirs and sundry items obtained and produced for resale.

12 W. The Arizona state schools for the deaf and the blind are exempt  
13 from this chapter when purchasing products through a cooperative that is  
14 organized and operates in accordance with state law if such products are not  
15 available on a statewide contract and are related to the operation of the  
16 schools or are products for which special discounts are offered for  
17 educational institutions.

18 X. Expenditures of monies in the morale, welfare and recreational fund  
19 established by section 26-153 are exempt from this chapter.

20 Y. Notwithstanding section 41-2534, the director of the state  
21 department of corrections may contract with local medical providers in  
22 counties with a population of less than four hundred thousand persons  
23 according to the most recent United States decennial census for the following  
24 purposes:

25 1. To acquire hospital and professional medical services for inmates  
26 who are incarcerated in state department of corrections facilities that are  
27 located in those counties.

28 2. To ensure the availability of emergency medical services to inmates  
29 in all counties by contracting with the closest medical facility that offers  
30 emergency treatment and stabilization.

31 Z. The department of environmental quality is exempt from this chapter  
32 for contracting for procurements relating to the water quality assurance  
33 revolving fund program established pursuant to title 49, chapter 2,  
34 article 5. The department shall engage in a source selection process that is  
35 similar to the procedures prescribed by this chapter. The department may  
36 contract for remedial actions with a single selection process. The exclusive  
37 remedy for disputes or claims relating to contracting pursuant to this  
38 subsection is as prescribed by article 9 of this chapter and the rules  
39 adopted pursuant to that article. All other procurement by the department  
40 shall be as prescribed by this chapter.

41 AA. The motor vehicle division of the department of transportation is  
42 exempt from this chapter for third party authorizations pursuant to title 28,  
43 chapter 13, only if all of the following conditions exist:

44 1. The division does not pay any public monies to an authorized third  
45 party.

1           2. Exclusivity is not granted to an authorized third party.  
2           3. The director has complied with the requirements prescribed in title  
3 28, chapter 13 in selecting an authorized third party.  
4           BB. This section does not exempt third party authorizations pursuant  
5 to title 28, chapter 13 from any other applicable law.  
6           CC. The state forester is exempt from this chapter for purchases and  
7 contracts relating to wild land fire suppression and pre-positioning  
8 equipment resources and for other activities related to combating wild land  
9 fires and other unplanned risk activities, including fire, flood, earthquake,  
10 wind and hazardous material responses. All other procurement by the state  
11 forester shall be as prescribed by this chapter.  
12           DD. The cotton research and protection council is exempt from this  
13 chapter for procurements relating to its aflatoxin control program and for  
14 contracts for research programs related to cotton production or protection.  
15           EE. Expenditures of monies in the Arizona agricultural protection fund  
16 established by section 3-3304 are exempt from this chapter.  
17           Sec. 19. Section 41-4151, Arizona Revised Statutes, is amended to  
18 read:  
19           41-4151. Definitions  
20           In this article, unless the context otherwise requires:  
21           1. "Agency":  
22           (a) Means any board, commission, department or other administrative  
23 unit of this state established by the Constitution of Arizona or by enactment  
24 of the legislature.  
25           (b) Includes the legislature, the courts and the governor.  
26           ~~(c) Does not include the state compensation fund.~~  
27           2. "Agency web site" means an agency owned, operated or funded web  
28 site connected to the internet and includes web sites accessed through the  
29 "Arizona@yourservice" portal.  
30           3. "Privacy policy statement" means a description of an agency's  
31 information practices.  
32           Sec. 20. Retroactivity  
33           Section 20-367, Arizona Revised Statutes, as amended by this act,  
34 applies retroactively to July 1, 2010.  
35           Sec. 21. Effective date  
36           Sections 1, 2 and 4 through 19 of this act are effective on January 1,  
37 2013.  
38           Sec. 22. Tax on self-insured employers  
39           For the purposes of calculating any tax or assessment to be paid by an  
40 authorized self-insured employer, including a workers' compensation pool  
41 under title 23, chapter 6, Arizona Revised Statutes, the deviation rate is  
42 set at ten per cent for calendar years 2013, 2014 and 2015.

APPROVED BY THE GOVERNOR APRIL 18, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2011.

Passed the House April 11, 20 11,

by the following vote: 44 Ayes,

15 Nays, 1 Not Voting

[Signature]  
Speaker of the House  
Pro Tempore

Cheryl Laube  
Chief Clerk of the House

Passed the Senate January 27, 20 11,

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting

[Signature]  
President of the Senate

Charmine Bellington  
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

**S.B. 1102**

**EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State



SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 13, 20 11

by the following vote: 26 Ayes,

7 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

13 day of April, 20 11

at 4:25 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 18<sup>th</sup> day of

April

at 3:17 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 18<sup>th</sup> day of April, 20 11

S.B. 1102

at 5:04 o'clock P. M.

[Signature]  
Secretary of State